

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW

PRESERVER, LP

Plaintiff,

-against-

CREATIVE WEALTH MEDIA FINANCE CORP;  
and JASON CLOTH

Defendants.

Case No. 21-cv-2456

ECF Case

**COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff Preserver, LP (“Plaintiff”), for its Complaint against defendants Creative Wealth Media Finance Corp. and Jason Cloth (collectively, “Defendants”), respectfully alleges as follows:

**NATURE OF ACTION**

1. This action arises out of Defendants’ breach of their contractual obligation to repay a film finance loan made by Plaintiff.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff is a Delaware limited partnership with its principal place of business in Memphis, Tennessee.

3. Upon information and belief, Defendant Creative Wealth Media Finance Corp. is a Canadian corporation with its principal place of business in Ontario, Canada and transacting business in the State of New York.

4. Upon information and belief, Defendant Jason Cloth is an individual residing in Ontario, Canada and transacting business in the State of New York.

5. This Court has diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(2) because this action is between a citizen of the State of Tennessee and citizens of Canada and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. This Court has personal jurisdiction over Defendants because Defendants expressly submitted to the jurisdiction of the New York federal courts under the subject Term Sheet (as defined in Paragraph 8 below). Specifically, Paragraph 17 of Schedule C to the Term Sheet states: “Financier and Lender irrevocably attorns and submits to the non-exclusive jurisdiction of the state or federal court located in New York, New York (or in any appellate courts thereof) with respect to any matters arising out of this Agreement and waives objection to the venue of any proceeding in such court or that such court provides an inconvenient forum.”

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because defendants are subject to the Court’s personal jurisdiction with respect to this action.

**FIRST CLAIM**  
**(Breach of Contract)**

8. Plaintiff and Defendants are parties to the binding written “Financing Term Sheet,” dated as of November 27, 2019 (the “Term Sheet”), a true and correct copy of which is attached hereto as Exhibit “A.”

9. Pursuant to the express provisions of the Term Sheet, Plaintiff loaned Defendant Creative Wealth Media Finance Corp. the sum of \$2,500,000 (the “Loan”).

10. Also pursuant to the express provisions of the Term Sheet, Defendants jointly agreed to repay the entirety of the Loan plus 15% interest (collectively, the “Loan Repayment Amount”), by no later than November 27, 2020 (the “Repayment Deadline”).

11. Also pursuant to the express provisions of the Term Sheet, Defendants agreed to pay additional default interest at a rate of 1.5% per month in the event of a failure to repay the Loan Repayment Amount by the Repayment Deadline.

12. Plaintiff has performed its obligations under the Term Sheet.

13. Defendants, on the other hand, have breached the Term Sheet by failing and refusing to timely repay the Loan Repayment Amount. Specifically, although Plaintiff has received partial payment in the amount of \$242,309, the overwhelming majority of the Loan Repayment Amount remains unpaid.

14. As a result of Defendants' breach of the Term Sheet, Defendants have caused damage to Plaintiff in the amount of the remaining Loan Repayment Amount plus default interest at the rate of 1.5% per month from the Repayment Deadline.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully requests that the Court enter an order and judgment in favor of Plaintiff against Defendants, containing the following relief:

1. On its First Claim for Breach of Contract, awarding Plaintiff damages in amount to be established at trial but no less than \$2,758,000 to compensate Plaintiff for the monetary losses it has suffered;

2. Awarding Plaintiff 9% interest on its damages pursuant to CPLR §§ 5001-5003, 5004;

3. Awarding Plaintiff its prevailing party attorneys' fees and costs pursuant to the Term Sheet; and

4. Granting Plaintiff such other and further relief as the Court deems just and proper.

**JURY TRIAL DEMAND**

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury.

Dated: March 19, 2021  
Los Angeles, CA

LAVELY & SINGER  
PROFESSIONAL CORPORATION

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